

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL S. HOSKINS,

Plaintiff,

v.

DR. WOJTECKA, et al.

Defendants.

ORDER

Case No. 19-cv-504-jdp

On June 26, 2019, I entered an order assessing plaintiff Michael S. Hoskins an initial partial payment of \$1.42 in the above case. On July 8, 2019, plaintiff filed a motion to waive the initial partial payment. Dkt. 5. Plaintiff's motion will be denied without prejudice.

Plaintiff has not provided documentation that shows the steps plaintiff has taken to request funds to pay the initial partial from the institution's business office. Furthermore, the account statement plaintiff submitted with his complaint indicates that plaintiff is receiving regular monthly deposits. According to the language of 28 U.S.C. § 1915(b)(1), prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if plaintiff does not have money in his regular account to pay the initial partial payments, plaintiff is allowed to use funds from his release account to pay the initial partials. I will give plaintiff an enlargement of time until July 31, 2019, to pay the initial partial payment in the above case.

ORDER

IT IS ORDERED that:

1. Plaintiff Michael S. Hoskins' motion to waive the initial partial payment in the above case, dkt. 5, is DENIED.

2. Plaintiff may have an enlargement of time to July 31, 2019, in which to submit a check or money order payable to the clerk of court in the amount of \$1.42. If plaintiff does not have funds available from his release account to make the initial partial payment, plaintiff is allowed to use funds from his release account to pay the initial partial payment.

3. If, by July 31, 2019, plaintiff fails to make the initial partial payment, or show cause for failure to do so, plaintiff will be held to have withdrawn the action voluntarily and the case will be closed without prejudice to plaintiff's filing his case at a later date.

Entered this 9th day of July, 2019.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge